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NORRIS, MC LAUGHLIN & MARCUS, P.A.
875 THIRD AVE
18TH FLOOR
NEW YORK, NY 10022

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| In re Application of LEE | : | |
| U.S. Application No.: 10/536,578 | : | |
| PCT Application No.: PCT/KR2003/002618 | : | DECISION |
| Int. Filing Date: 01 December 2003 | : | |
| Priority Date Claimed: 30 November 2002 | : | |
| Attorney Docket No.: 101371-38 | : | |
| For: CONTAINER FOR FOOD AND BEVERAGE | : | |

This is in response to applicant's "Petition Under 37 CFR § 1.181(a) to Withdraw Holding of Abandonment" filed 11 August 2006.

BACKGROUND

On 01 December 2003, applicant filed international application PCT/KR2003/002618, which claimed priority of an earlier Korea application filed 30 November 2002. A copy of the international application was communicated to the USPTO from the International Bureau on 17 June 2004. The thirty-month period for paying the basic national fee in the United States expired on 30 May 2005.

On 26 May 2005, applicant filed national stage papers in the United States Designated/Elected Office (DO/EO/US). The submission was accompanied by, *inter alia*, the basic national fee required by 35 U.S.C. 371(c)(1).

On 01 September 2005, the DO/EO/US mailed a Notification of Missing Requirements Under 35 U.S.C. 371 (Form PCT/DO/EO/905), which indicated that an oath or declaration in compliance with 37 CFR 1.497 must be filed.

On 28 September 2005, applicant purportedly filed an executed declaration.

On 24 July 2006, the DO/EO/US mailed a Notification of Abandonment (Form PCT/DO/EO/909).

On 11 August 2006, applicant filed the present petition under 37 CFR 1.181.

DISCUSSION

37 CFR 1.8(b) states:

In the event that correspondence is considered timely filed by being mailed or transmitted in accordance with paragraph (a) of this section, but not received in the U.S. Patent and Trademark Office after a reasonable amount of time has elapsed from the time of mailing or transmitting of the correspondence, or after the application is held to be abandoned, or after the proceeding is dismissed, terminated, or decided with prejudice, the correspondence will be considered timely if the party who forwarded such correspondence:

- (1) Informs the Office of the previous mailing or transmission of the correspondence promptly after becoming aware that the Office has no evidence of receipt of the correspondence;
- (2) Supplies an additional copy of the previously mailed or transmitted correspondence and certificate; and
- (3) Includes a statement which attests on a personal knowledge basis or to the satisfaction of the Director to the previous timely mailing or transmission. If the correspondence was sent by facsimile transmission, a copy of the sending unit's report confirming transmission may be used to support this statement.

With regard to item (1) above, the present petition was promptly filed.

With regard to item (2) above, the present petition includes a copy of the previously transmitted correspondence and certificate.

With regard to item (3) above, the statement contained in the petition is not from the person whose name appears on the certificate of transmission.

CONCLUSION

For the reasons above, the petition under 37 CFR 1.181 is DISMISSED without prejudice.

If reconsideration on the merits of the petition is desired, a proper response must be filed within TWO (2) MONTHS from the mail date of this decision. Extensions of time are available under 37 CFR 1.136(a). Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.181".

Please direct further correspondence with respect to this matter to Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria,

Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

Bryan Lin

Bryan Lin
PCT Legal Examiner
PCT Legal Office

Telephone: 571-272-3303
Facsimile: 571-273-0459